

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CLARENCE BOGAN,
Plaintiff,

vs.

TIMOTHY BRUNSMAN, et al.,
Defendants.

Case No. 1:11-cv-259

Barrett, J.
Bowman, M.J.

ORDER

On October 14, 2011, the Court granted plaintiff's motion to proceed *in forma pauperis* as to Claim 4 of the complaint. (Doc. 11).

Pursuant to 28 U.S.C. §1915(b)(1), the custodian of plaintiff's inmate trust fund account at the institution where he now resides is directed to calculate, as an initial partial payment, twenty percent (20%) of the greater of:

(a) the average monthly deposits to the inmate trust account; or

(b) the average monthly balance in the inmate trust account, for the six (6) months immediately preceding May 22, 2007. The custodian is **ORDERED** to complete and to submit to the Clerk of Court in Cincinnati, Ohio the attached form showing his calculation of the initial partial filing fee. The custodian is further **ORDERED** to forward from plaintiff's prison account to the Clerk of Court located in Cincinnati, Ohio the initial partial filing fee, as funds become available in plaintiff's account until the initial filing fee is paid. Even if the account is under ten dollars (\$10.00), the custodian must still forward payments to the Clerk of Court to pay the initial filing fee.

After full payment of the initial partial filing fee, the custodian shall forward to the Clerk of Court located in Cincinnati, Ohio monthly payments of twenty percent (20%) of plaintiff's preceding monthly income credited to his prison account, but only when the amount in the account exceeds ten dollars (\$10.00), until the full fee of three hundred and fifty dollars

(\$350.00) has been paid to the Clerk of the Court. 28 U.S.C. §1915(b)(2).

The Clerk of Court is **DIRECTED** to send a copy of this Order to the institutional cashier.

The prisoner's name and case number must be noted on each remittance.

Checks are to be made payable to: **Clerk, U.S. District Court.**

Checks are to be sent to:

**Prisoner Accounts Receivable
103 Potter Stewart United States Courthouse
100 East 5th Street
Cincinnati, Ohio 45202**

The Court further finds that plaintiff's complaint, liberally construed, states a claim for relief under the Eighth Amendment for deliberate indifference to safety. *See* 28 U.S.C.

§§ 1915(e)(2)(B), 1915A(b). Plaintiff's complaint shall be permitted to proceed against defendants Timothy Brunsman and Gary C. Mohr on this claim.

It is **ORDERED** that the United States Marshal serve a copy of the complaint, summons, Report and Recommendation (Doc. 7), Order granting plaintiff's motion to proceed *in forma pauperis* with regard to Claim 4 of the complaint (Doc. 11), and this Order upon defendants as directed by plaintiff. All costs of service shall be advanced by the United States.

IT IS SO ORDERED.

/s/ Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

CALCULATION OF INITIAL PARTIAL FILING FEE

Prisoner's name _____

Case no. _____

Average Monthly Balance \$ _____

(For six month period preceding filing of complaint or notice of appeal)

Average Monthly Deposits \$ _____

(For six month period preceding filing of complaint or notice of appeal)

Initial Partial Filing Fee \$ _____

(the greater of the average monthly deposits or the average monthly balance x .20)

Date

Signature of Authorized Officer